

California's Paid Family Leave Law: Lessons from the First Decade

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CALIFORNIA'S PAID FAMILY LEAVE LAW: LESSONS FROM THE FIRST DECADE

California's first in the nation paid family leave law came into effect 10 years ago – on July 1, 2004. What have we learned in the ensuing decade, and what are the implications for future paid leave laws, whether in other states or at the federal level?

Background

What is paid family leave and what is California's program?

Family leave provides an employee with a period of time off work to care for a newborn or a sick child, spouse, or parent. The 1993 Family and Medical Leave Act (FMLA) requires that employers provide 12 weeks of family leave to qualifying workers with a newborn or a sick child, spouse, or parent, but that leave is *unpaid*.¹

In contrast to the United States, most industrialized countries provide new mothers (and sometimes fathers) rights to a substantial amount of *paid* leave following the birth of a child. For example, Canada is fairly typical in providing a year or more of paid parental leave with 55 percent of pay replaced (up to a maximum benefit level). Conversely, the United States is one of only four nations in the world without a federal entitlement to paid parental leave (Heymann, Earle, & Hayes, 2007).

However, just as some states passed their own laws granting unpaid family leave before the FMLA, some have begun to provide employees with paid family leave (*PFL*) to care for a newborn or a sick child, spouse, or parent. California was the first to do so, allowing six weeks of *PFL* with 55 percent of usual pay replaced (up to \$1,075 per week in 2014), although this leave is not job-protected and is typically not provided to public-sector employees.²

California's paid family leave statute (*CA-PFL*) was passed in 2002 and took effect July 1, 2004. It is financed through a payroll tax levied on employees and was added to the pre-existing Temporary Disability Insurance (TDI) program that typically provides mothers with six weeks of paid leave during or just after pregnancy.³ Under *CA-PFL*, new mothers and fathers can take up to six weeks of paid leave to bond with their child (for mothers, this is in addition to the six weeks they can take under TDI); *CA-PFL* leave can also be used by employees with a sick, child, spouse (or domestic partner), or parent.⁴

In the ensuing decade, three other states have followed California's example. In July 2009, New Jersey began a “family leave insurance” program, which is also added to the state’s TDI system and is quite similar to *CA-PFL*. New Jersey’s program offers six weeks of paid leave at a 66 percent replacement rate, although with a considerably lower (\$595 per week in 2014) maximum benefit (Department of Labor and Workforce Development, 2014). Since January 5, 2014, Rhode Island’s “temporary caregiver’s insurance” program has provided four weeks of paid leave at a

60 percent wage replacement rate, up to a ceiling of \$752 per week. As with California and New Jersey, Rhode Island's program is coordinated through the state's TDI program; however, job protection is also provided during the leave period.⁵ Washington state approved \$250 per week in *PFL* benefits to be provided for five weeks, with the program scheduled to begin in 2009 (Progressive States Network, 2010); however, due to budgetary pressures, implementation has been repeatedly postponed and is now not scheduled until 2015 (Employment Security Department, 2013).⁶

PFL has also attracted interest at the national level. In his 2011 budget, President Obama proposed (unsuccessfully) to allocate \$50 million in competitive grants to states that start *PFL* programs. There have also been increasing efforts to enact legislation to establish a national paid leave program.⁷

Utilization

How many employees have used the California program and has utilization changed over time?

Use of California's *PFL* program grew steadily in the first years after implementation. Approximately 153,000 claims were paid in fiscal year 2005-2006 (July 1 – June 30), a number that grew steadily to almost 188,000 in fiscal year 2008-2009, before falling slightly in 2009-2010 (probably due to the severe recession); claims rebounded thereafter and exceeded 202,000 in fiscal year 2012-2013.⁸ Between 87 and 88 percent of these claims are for “bonding” with a newborn and between 12 and 13 percent are to care for a sick family member. Zigler, Muenchow, and Ruhm (2012) estimate that the number of claims per 100 live births rose from 24 to 30, between 2004 and 2009. Interestingly, they also find that utilization of *PFL* in 2005-2006 was lower for workers with household incomes of either \$12,000 or less, or above \$72,000, than for those whose household incomes were between \$12,001 and \$72,000.

Despite the growth over time in use of the program, Appelbaum and Milkman (2011) indicate that about half (51.4 percent) of California workers they surveyed in 2009 and 2010 were unaware of it, and these individuals were most likely to have the greatest potential need (younger respondents, non-Whites, those with less education or household income, and those without employer-based paid leave benefits). Moreover, a third of those who knew about the program did not apply for the benefits because the wage replacement was too low. Others did not take paid leave because they either thought they were not eligible or feared their employer would be unhappy, limiting future potential advancement, or even resulting in employment termination.

Leave-Taking and Leave Duration

How has California's law affected leave-taking and leave duration?

Laws providing new parents with leave from work are predicted to increase leave-taking and duration but their effects on work are ambiguous. Specifically, parents who would have returned

to work without the government-provided leave benefits are expected to delay doing so, thereby increasing leave-taking but decreasing actual work. Conversely, parents who, absent the program, would have quit their jobs may instead elect to take parental leave and return to the employer, increasing both leave-taking and work. Relative to unpaid leave (i.e., provided by the FMLA) paid leave provides parents financial support during the period, potentially increasing leave-taking and durations more than unpaid leave.

Baum and Ruhm (2014) study the effects of *CA-PFL* on leave-taking and leave duration using data from the National Longitudinal Survey of Youth (NLSY). They examine leave use in each week after childbirth for mothers who were employed during at least 32 pregnancy weeks and who gave birth between 2000 and 2010. In states other than California and in California before 2004 (when *CA-PFL* took effect), around 55 percent of sampled mothers took at least one week of paid or unpaid leave. Relatively few mothers took leave before the child's birth and the average California mother in their sample was on leave for around eight weeks in total prior to enactment of the *PFL*.⁹

Baum and Ruhm's (2014) regression results (from difference-in-difference models comparing mothers in California and other states before and after the 2004 paid leave provisions went into effect) show that California's leave law significantly increased leave-taking. As displayed in Figure 1, almost 70 percent of California mothers were on leave at least one week after giving birth, subsequent to the implementation of *PFL*. About 50 percent remained on leave five weeks later and 35 percent were on leave in the child's 10th week of life. Thereafter, the proportion on leave dropped more rapidly. For the average mother, the California paid leave program is predicted to increase leave-taking by about 2.4 weeks (from 7.8 to 10.2 weeks).

California's law only provides six weeks of paid leave; however, Baum and Ruhm find that the largest effect on leave-taking occurs six to 14 weeks after delivery. The likely reason is that mothers are using the *PFL* in conjunction with other paid leave, such as that provided by California's TDI program. This makes sense: Six weeks (or eight weeks for caesarian births) of TDI leave plus six weeks of paid leave provided by California's 2004 statute would allow leave-taking through about 12 to 14 weeks after a child's birth.

Rossin-Slater, Ruhm, and Waldfogel (2013) corroborate these conclusions. They examine California mothers with a child less than one year of age in the 1999-2010 Current Population Survey (CPS) data. They find that before California's paid leave program, 5.4 percent of these mothers were on maternity leave in the week prior to the survey. After the program went into effect, 11.8 percent of mothers were on leave. Their regression results show that California's paid leave statute significantly increases leave-taking—more than doubling it. For the average mother, they estimate that California's legislation increased leave-taking by 3.2 weeks.¹⁰

Rossin-Slater et al. (2013) also examine subgroups. They show that non-Whites, those with a high school degree or less, and those who were unmarried used less maternity leave on average

before California's paid leave program relative to their counterparts (e.g., Whites, those with a college education or more, and those married), but that California's statutes increase leave-taking among these groups by more than three weeks.

In both the Baum and Ruhm (2014) and Rossin-Slater et al. (2013) studies, mothers do not appear to use all the leave to which they are entitled. Baum and Ruhm conclude that the average mother is taking 40 percent of the statutory duration of the program as additional leave (2.4 of six weeks). Rossin-Slater et al. (2013) approximate that mothers use about half the available leave. This suggests that even with California's partial wage replacement provisions, many mothers cannot afford to exhaust the benefits.

Fathers, who have been studied less extensively than mothers, are also provided *PFL* under California's law, but they do not have access to time off work under TDI. Fathers typically take relatively little leave after a child's birth, but California's program has increased paternal leave-taking by amounts that, while small in absolute terms, are large in percentage terms. For example, Baum and Ruhm (2014) estimate that *CA-PFL* increased paternal leave-taking by just under one week (from a base of around two weeks), with the largest effect occurring in the week or two immediately following the child's birth.¹¹

These studies of the effects of California's paid leave program on leave-taking and leave duration have some shortcomings. Neither Baum and Ruhm (2014) nor Rossin-Slater et al. (2013) are able to differentiate between the taking of paid leave versus unpaid leave. This is partially because survey respondents do not clearly indicate (and may not know) whether time off from work is paid by their employer or another entity (such as the state of California). Baum and Ruhm's (2014) sample is relatively small, preventing them from examining effects on sub-groups. Rossin-Slater et al. (2013) are only able to identify leave-taking at the time of the survey, and they do not know the exact date of birth of survey children, so they cannot shed light on the distribution or timing of leave-taking relative to the child's birth.

Longer-run effects on employment and earnings

What do we know about longer-run effects on individuals' labor market outcomes, in particular, employment and earnings?

PFL is expected to raise leave-taking in the period immediately following a child's birth because some parents will delay returning to their pre-childbirth jobs, during which time they are "employed but not at work," while others take leave rather than quitting jobs. However, to the extent that *PFL* enables job continuity for new parents, employment and work may rise in the longer-term. These effects may be dampened if parents would have taken paid leave even without the legislation or if the wage replacement rate is too low for them to afford time off work.¹²

While it is still too soon to definitively state what the longer-run effects of U.S. *PFL* laws might be, researchers have previously analyzed the largely unpaid family leave provisions in the United States (Klerman & Leibowitz, 1997, 1999; Waldfogel, 1999; Baum, 2003a,b; Han & Waldfogel, 2003; Berger & Waldfogel, 2004; Han, Ruhm, & Waldfogel, 2009) and of paid parental leave in other industrialized countries (Ruhm & Teague, 1997; Albrecht, Edin, Sundstrom, Vroman, 1998; Ruhm, 1998; Ondrich, Spiess, Yang, & Wagner, 1999; Schonberg & Ludsteck, 2007; Baker & Milligan, 2008; Gupta, Smith, & Verner, 2008; Hanratty & Trzcinski, 2009; Lalive & Zweimuller, 2009; Pronzato, 2009). These studies typically examine the effects of the government laws on aggregate employment rates or wages of mothers or women of childbearing age.¹³ Most of this research suggests that parental leave rights yield positive effects on labor market outcomes but with some variation in the findings. For example, Ruhm (1998) indicates that short- to medium-length leave mandates in Europe increase employment without decreasing wages, whereas Lalive and Zweimuller (2009) find that an extension of Austrian paid leave rights from one to two years decreased maternal employment and wages in the short-term but not the long-run.

PFL could have different consequences than the unpaid leave provided under the 1993 FMLA because wage replacement may allow parents facing financial constraints to take more time off work. Moreover, coverage under California *PFL* is nearly universal, whereas fewer than 60 percent of workers are eligible under the FMLA, due to its firm size and work history requirements.¹⁴ The effects of the California paid leave program may also depart from those of paid leave in other industrialized nations because of its relatively short duration (e.g., six weeks in California versus a year or more in Canada).¹⁵ Indeed, evidence provided by Baum and Ruhm (2014) suggests that the program modestly increases rates of maternal employment nine or more months after birth, which is consistent with Rossin-Slater et al.'s (2013) evidence of medium-term increases in employment and possibly wages.

Effects on employers

What do we know about effects on employers? How difficult/easy is it to manage leaves under this new program? What other impacts do employers report? What challenges have they faced?

Financing for California's *PFL* program comes exclusively from employee payroll taxes, so there are no direct costs to employers in terms of funding the paid leave. However, employers with workers on leave might face other costs, such as having to hire a replacement worker to temporarily cover work. This might be particularly challenging for small employers. Companies might also face problems if their employees take leave for reasons not intended under the law. At the same time, a *PFL* law might also yield benefits to employers if, for example, employees who have the opportunity to take a paid leave are more likely to return to their jobs rather than quitting them. The availability of paid leave might also enhance employee productivity, loyalty, and morale.

What do we know about how these types of effects have played out in California? Appelbaum and Milkman (2011, 2013) surveyed approximately 250 California firms in 2010 about their experiences with the *PFL* law. They also conducted more in-depth interviews at 20 firms. Roughly 90 percent of firms in their survey said the law had either a positive effect or no effect on productivity, profit, morale, and costs. A similar proportion (nearly 90 percent) said they had not experienced any problems with employees taking leave for reasons not intended under the law. And, perhaps surprisingly, small firms reported even fewer problems than large firms.

Appelbaum and Milkman (2011, 2013), in both their survey and their in-depth interviews, asked employers how they managed while a worker was out on leave. This is not a new issue since some workers would have been on leave even without *PFL* (e.g. using TDI). However, with leave-taking being more common under *PFL*, the challenge might arise more often or last longer. They found that, most commonly, employers assigned work temporarily to other employees (this was the case in about two-thirds of firms); less frequently, employers hired temporary replacements (this was the case in less than one-third of firms).

Appelbaum and Milkman's (2011, 2013) findings from California are generally consistent with results from national surveys of employer experiences with family leave laws. Three national surveys of employers have been conducted post-FMLA. The most recent, in 2012, found that fewer than 10 percent of employers reported problems with productivity, absenteeism, turnover, profitability, career advancement, or morale; small employers were less likely to report problems than were large employers (Klerman et al., 2012).

A common limitation of the research to date on family leave and employers is that for the most part it relies on cross-sectional surveys of employer attitudes. Future research could shed more light on employer effects by using difference-in-difference designs to compare changes in outcomes for employers in states implementing *PFL* laws with changes in outcomes for employers in similar states not implementing such laws.

Effects on employees and their families

Has the law made it easier for new parents to manage family responsibilities and bond with their children? What do we know about effects on the health and wellbeing of parents, children, and other family members?

PFL policies might have important consequences not only for the employment and career trajectories of workers but also for the health and wellbeing of their families. In particular, a *PFL* program provides time off from work so new mothers can prepare for and recover from childbirth and parents can stay home to care for their newborns. As such, the guarantee of leave (especially if it is job-protected) may reduce maternal stress during and immediately after pregnancy, which has been shown to have an adverse effect on infant and child health and wellbeing (Mulder et al., 2002; Aizer, Stroud, & Buka, 2009; Currie & Rossin-Slater, 2013; Persson & Rossin-Slater, 2014).

After the birth, the availability of family leave may yield further benefits, by influencing the quantity and quality of time that a newborn child spends with his or her parents. For example, a mother may have more time to care for an ill child, breastfeed, or seek prompt medical care if she is on leave instead of working. Leave policies that allow for continued health insurance coverage can also increase access to regular preventative care. Additionally, unlike unpaid leave, a *paid* family leave policy can reduce the negative impacts on family income and therefore protect the family's material resources available for child rearing.

To date, most evidence on the impacts of *PFL* on families and children comes from countries outside the United States, which tend to have much more generous *PFL* policies, as noted above (Heymann et al., 2007). Ruhm (2000) and Tanaka (2005) show that European countries with longer leave policies have lower post-neonatal and age one-to-five mortality rates. However, causal inference from such cross-country comparisons is complicated as other country-specific factors may be correlated with both leave provision and infant health. For example, Scandinavian countries, which have some of the longest family leaves, also have a variety of other social safety net supports such as low-cost public childcare.

More recent investigations have focused on one country at a time and examined what happens when leave availability changes because existing leave policies are expanded or new ones are introduced. These "natural experiment" research designs can more credibly identify causal effects of *PFL* by comparing the outcomes of children who were born under more generous leave regimes to those of similar children born during times of less generous leave availability. Studies have examined the consequences of *PFL* expansions from: six to 12 months in Canada in 2000 (Baker & Milligan, 2010), two to six months (in 1979) and six to 10 months (in 1986) in Germany (Dustmann & Schönberg, 2012), 12 to 15 months in Sweden (in 1988) (Liu & Skans, 2010), and a series of extensions from four to eight months in Norway over 1987-1992 (Dahl Løken, Mogstad, & Salvanes, 2013). There is little evidence from these studies that expansions in *PFL* longer than two months had any impacts on child or family wellbeing.

However, the research just described provides limited guidance on what to expect from the introduction of an initial and shorter *PFL* program in the United States. Moreover, the institutional setting where a family leave policy is enacted probably matters. For instance, a reform expanding paid leave from 12 to 15 months in a setting with subsidized child care and universal health insurance (e.g., as is in Sweden) is markedly different from one that provides *PFL* for the first time in a situation where neither child care nor health insurance is guaranteed (e.g., as with *CA-PFL*).

Therefore, it may not be surprising that a study of the effects of the 1977 introduction of a four-month *PFL* in Norway (where the preceding policy only provided three months of unpaid leave) offers evidence that contrasts with the other findings from Europe and Canada. Specifically, implementation of the Norwegian policy had lasting beneficial impacts on children's educational

attainment, particularly for those from disadvantaged backgrounds (Carneiro, Løken, & Salvanes, 2010).

Recent evidence for the United States, a country with limited leave provisions, suggests that the 12 weeks of unpaid leave guaranteed by the FMLA can improve child health. Specifically, Rossin (2011) shows that the FMLA led to a small (six gram) increase in average birth weight and a fairly large (about 10 percent) reduction in the infant mortality rate. However, these health benefits only accrued to children of highly educated and married women, who were most likely to be eligible for FMLA and able to afford to take unpaid time off.

To date, there is limited evidence on the consequences of state-level *PFL* policies for family and child wellbeing. Stearns (2014) studies the impact of the 1978 Pregnancy Discrimination Act, which mandated that states with TDI programs provide around six weeks of paid maternity leave for pregnant women and new mothers. She finds that TDI-based paid maternity leave improved infant health—low birth-weight rates (less than 2,500 grams) fell by five percent and preterm birth rates (less than 37 weeks gestation) by eight percent. In contrast to Rossin's (2011) study of unpaid leave, these effects were largest among disadvantaged African-American and unmarried mothers.

As such, the finding that California's *PFL* program generated the largest leave-taking increases among less educated, unmarried, and minority mothers (Rossin-Slater et. al, 2013) suggests that this program may provide disadvantaged children with early life health benefits as well. This proposition is corroborated by recent evidence showing that CA-*PFL* substantially increased breastfeeding rates (Huang & Yang, 2014) and maternal time spent on child care (Goodman, 2014). Careful research on the causal impacts of *PFL* for other measures of family and child wellbeing (such as parental and child physical and mental health, child development indicators, child later-life academic outcomes, etc.) has not yet been conducted.

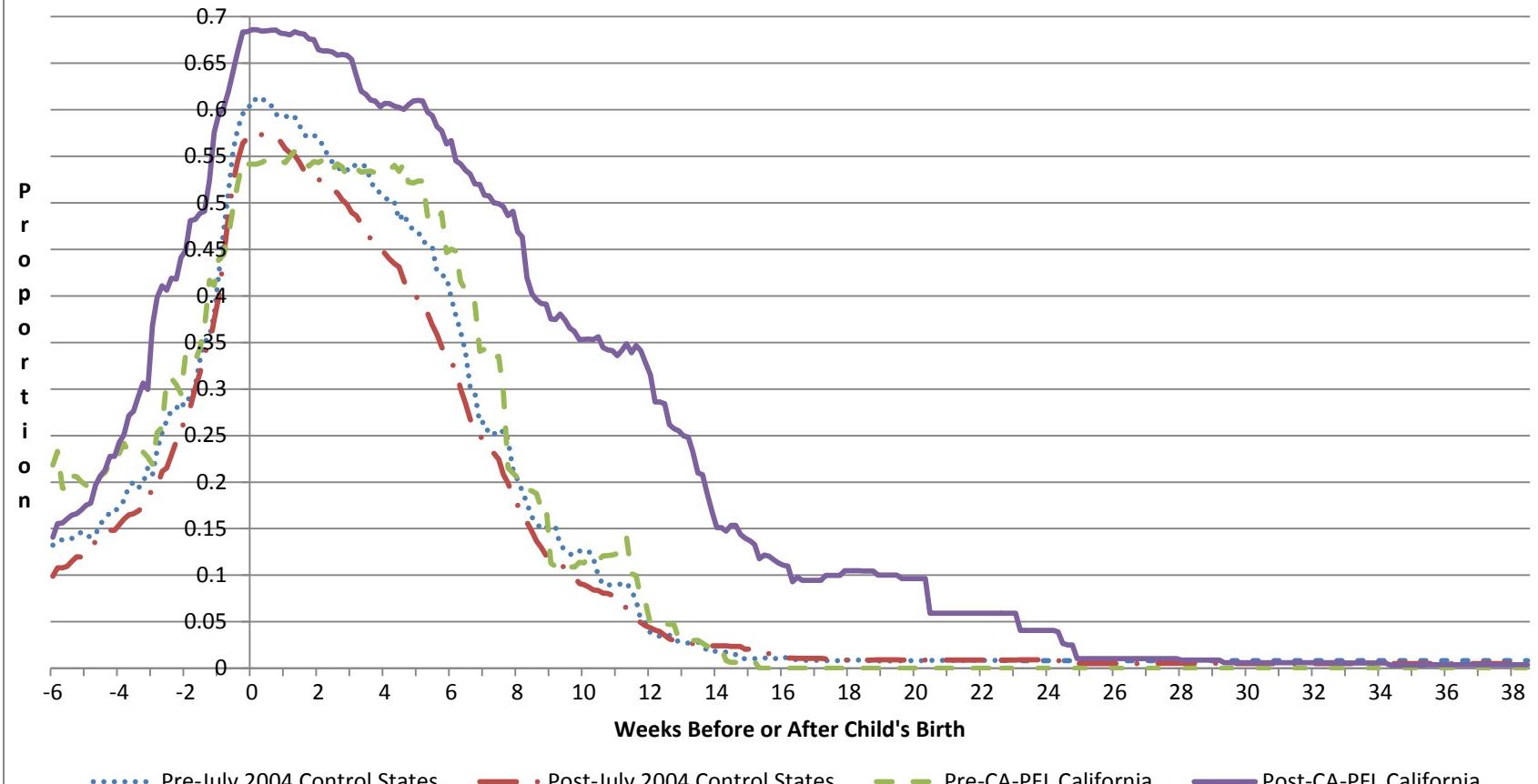
Implications

Ten years after California's law came into effect, we can draw three main conclusions:

- Access to *PFL* increased new mothers' leave-taking in California by around three weeks, with the largest effects probably occurring among disadvantaged women who took the shortest leaves before the law came into effect. The program may also have increased leave-taking by fathers, albeit by smaller amounts. Medium-term effects on women's employment and wages also appear to be positive.
- The program positively affected children and families. In particular, having access to *PFL* increased breast-feeding and mothers' time spent on child care.
- The law has not caused major problems for California employers. The vast majority (roughly 90 percent) report positive effects or no effects in terms of productivity, profitability, retention, and morale. Small employers, if anything, report fewer problems than large firms.

As of this writing, two other states (New Jersey and Rhode Island) have implemented *PFL* laws similar to California's, while one additional state (Washington) has passed legislation that has not yet been implemented. Several other states and Congress are considering further legislation in this area. The results from California's first decade of *PFL* suggest that such laws can be a win-win—providing welcome support for employees and their families, without posing an undue burden on employers. While there is more for us to learn about the longer-run effects of California's landmark law, we know enough now to conclude that it has successfully met its objectives and provides useful lessons for the rest of the nation.

Figure 1: Regression-Adjusted Proportion of Mothers on Leave



Source: Baum and Ruhm (2014).

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Endnotes

¹ The FMLA provides for 12 weeks of unpaid leave following the birth or adoption of a child, with exemptions for small firms and employees not meeting a work history requirement. The law also covers time off work due to their own or a family member's serious health problem, and so is called "family leave" rather than "parental leave." Along this dimension, the FMLA and the state laws we discuss below are broader than the provisions in many other countries. See Ruhm (2011) for a detailed discussion of family and parental leave laws in both a U.S. and an international context.

² This information on California's paid leave program is obtained from Fass (2009), Appelbaum and Milkman (2011, 2013), and Employment Development Department (2014).

³ According to Zigler et al. (2012), California's paid family leave program "evolved from a set of circumstances that might be difficult to replicate in other states" (p. 125). First, there was a strong advocacy base, including a coalition of community groups who obtained a planning grant from the David and Lucile Packard Foundation. The governor and legislature were supportive of paid leave and California had significant program infrastructure in place including, most importantly, a temporary disability program. Nevertheless, compromises were required to pass the paid leave program including: reducing the duration of benefits from the 12 weeks initially proposed to six, financing it only through employee (rather than also employer) payroll taxes, allowing employers to require employees to use up to two weeks of accrued vacation before enrolling in the program, and not supplying job protection (beyond that already available from other programs, such as the FMLA).

⁴ Effective July 1, 2014, California employees may also be able to receive CA-PFL benefits to care for a seriously ill parent-in-law, grandparent, grandchild, or sibling (http://www.edd.ca.gov/disability/Paid_Family_Leave.htm).

⁵ Information on the Rhode Island program is available at www.dlt.ri.gov/tdi/tdifaqs.htm and www.shrm.org/LegalIssues/StateandLocalResources/Pages/Rhode-Island-Temporary-Caregiver-Leave.aspx.

⁶ Unlike California, New Jersey, or Rhode Island, Washington does not have a temporary disability system upon which paid family leave could be added. Only two other states – Hawaii and New York – have TDI programs (Fass, 2009) and the TDI benefits are often quite low (e.g. the maximum benefit in New York was \$170 per week in 2013).

⁷ Most recently, the Family and Medical Insurance Leave Act, proposed by Sen. Kirsten Gillibrand and Rep. Rosa DeLauro in 2013, would have provided workers with 12 weeks of paid leave at a 66 percent wage replacement rate (up to a ceiling), with no employer size exemption, to be administered by a new Office of Paid Family and Medical Leave within the Social Security Administration (www.nationalpartnership.org/research-library/work-family/paid-leave/family-act-fact-sheet.pdf).

⁸ Unless otherwise noted, the statistics in this paragraph are based on data from:

http://www.edd.ca.gov/Disability/pdf/qspfl_PFL_Program_Statistics.pdf, accessed June 9, 2014.

⁹ Recall that these were mothers with considerable work experience during pregnancy and who had leave available through the state's TDI program, so that leave durations for this group would be longer than for mothers in other states or with less recent pre-birth work experience.

¹⁰ Byker (2014) uses Survey of Income and Program Participation (SIPP) data to examine the effects of California's paid parental leave program on labor force participation for mothers in the months around their child's birth. She finds California's law increases new mothers' labor force participation initially after giving birth but has little impact more than six months after the birth. However, it is not clear from

these results how California's program affects leave-taking since mothers may switch from employed and working to employed and on leave without changing their labor force status.

¹¹ Han et al. (2009) similarly find that the implementation of rights to unpaid leave (through the FMLA and state programs) raises the leave-taking of fathers by small amounts, but from a very low base such that the percentage increases are fairly large.

¹² In 2012, 35 percent of female employees were at worksites offering paid maternity leave (although of potentially short duration) to "all" or "most" employees and 20 percent of males were at sites offering corresponding paternity leave (Klerman et al., 2012).

¹³ Parental leave rights could increase aggregate employment and wage levels because they preserve employer-employee relationships. Conversely, they may have the opposite effect (for at least some groups) if they raises labor costs (particularly for the workers most likely to take leave).

¹⁴ Klerman et al. (2012) estimate that 59 percent of workers were FMLA-eligible in 2012. Eligibility rates will be lower for expectant parents who work for smaller firms or have less recent employment experience than the average worker.

¹⁵ Benefits in some European countries are long enough to allow parents to have multiple births while on paid leave.